THE HON'BLE SRI JUSTICE V.V.S. RAO

W.P.No. 16437 of 2006

14-08-2006

Between:-

Smt. Sabita Joshi and two others.

Petitioners

And

A.P. Wakf Board, represented by its Secretary, Haj House, Opp: Public Garden, Nampally, Hyderabad.

Respondent

THE HON'BLE SRI JUSTICE V.V.S. RAO

W.P.No. 16437 of 2006

ORDER:

The petitioners are legal heirs of late Bhaskar Rao Joshi, who inherited the land ad-measuring Ac.06-14 gts., in survey No. 182/1 and 182/2 of Gudimalkapur village under a will dated 20-02-1968 executed by one Ramdas Maharaj, who in turn appears to have got the property under registered sale deed dated 19-11-1966. The property was also subject matter of a suit, appeal and letters patent appeal being L.P.A.No.281 of 1999 before this court, which ultimately ended in favour of the petitioners. The petitioners alleged that they came to know that the land ad-measuring Ac.06-39 gts., in survey No. 182 of Gudi Malkapur village has been notified under Section 4 (3) of the Wakf Act, 1954 and a notification was published under Section 5(2) thereof in the Government of Andhra Pradesh Gazette (Supplement to Part-II) dated 21-03-1985. Feeling aggrieved by the same, the present writ petition is filed.

At the preliminary stage itself, the attention of this court has been invited by the learned standing counsel for the Andhra Pradesh Wakf Board to sub-sections (1) and (2) of Section 83 of the Wakf Act, 1995 ('1995 Act' for brevity), which enables any person aggrieved by any order made under the Act or Rules, to make an application to the Wakf Tribunal for determination of any dispute, question or other matters relating to the Wakf. Therefore, the petitioners have an effective alternative remedy. None the less, a strenuous effort is made by the learned counsel for the petitioners to contend that the dispute, which is raised in the present writ petition having regard to the language

employed in Sections 6 and 7 of the 1995 Act, is not amenable to the jurisdiction of the Wakf Tribunal. After giving anxious consideration to the submission, this court is not inclined to accept the same. A combined reading of Sections 6, 7 and 83 (1) and (2) of the 1995 Act would leave no doubt that even the dispute raised by the petitioners as to whether the property in survey Nos. 182 of Gudimalkapur village is wakf property or not is a dispute that squarely falls within the jurisdiction of the Wakf Tribunal. Therefore, liberty is given to the petitioners to approach the Wakf Tribunal, Hyderabad by filing an appropriate application within a period of two weeks from the date of receipt of a copy of this order. As and when such an application is made, the Wakf Tribunal may consider the same on the merits of the case.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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V.V.S. RAO, J

Dated:14-08-2006
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